

# Union Calendar No. 144

108TH CONGRESS  
1ST SESSION

# H. R. 1409

[Report No. 108-254]

To provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2003

Mr. TAYLOR of North Carolina (for himself, Mr. JONES of North Carolina, Mr. KILDEE, and Mr. CARSON of Oklahoma) introduced the following bill; which was referred to the Committee on Resources

SEPTEMBER 3, 2003

Additional sponsors: Mr. HAYWORTH, Mr. BISHOP of Utah, Mr. PALLONE, Mrs. CUBIN, Ms. BORDALLO, Mr. ORTIZ, Mr. BACA, Mr. CANNON, and Mr. RENZI

SEPTEMBER 3, 2003

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

To provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Eastern Band of Cher-  
5       okee Indians Land Exchange Act of 2002”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds the following:

8               (1) Since time immemorial, the ancestors of the  
9       Eastern Band of Cherokee Indians have lived in the  
10      Great Smoky Mountains of North Carolina. The  
11      Eastern Band’s ancestral homeland includes sub-  
12      stantial parts of seven eastern States and the land  
13      that now constitutes the Great Smoky Mountains  
14      National Park.

15             (2) The Eastern Band has proposed a land ex-  
16      change with the National Park Service and has  
17      spent over \$1,500,000 for studies to thoroughly in-  
18      ventory the environmental and cultural resources of  
19      the proposed land exchange parcels.

20             (3) Such land exchange would benefit the  
21      American public by enabling the National Park  
22      Service to acquire the Yellow Face tract, comprising  
23      218 acres of land adjacent to the Blue Ridge Park-  
24      way.

1           (4) Acquisition of the Yellow Face tract for pro-  
2           tection by the National Park Service would serve the  
3           public interest by preserving important views for  
4           Blue Ridge Parkway visitors, preserving habitat for  
5           endangered species and threatened species including  
6           the northern flying squirrel and the rock gnome li-  
7           chen, preserving valuable high altitude wetland  
8           seeps, and preserving the property from rapidly ad-  
9           vancing residential development.

10          (5) The proposed land exchange would also ben-  
11          efit the Eastern Band by allowing it to acquire the  
12          Ravensford tract, comprising 143 acres adjacent to  
13          the Tribe's trust territory in Cherokee, North Caro-  
14          lina, and currently within the Great Smoky Moun-  
15          tains National Park and Blue Ridge Parkway. The  
16          Ravensford tract is part of the Tribe's ancestral  
17          homeland as evidenced by archaeological finds dat-  
18          ing back no less than 6,000 years.

19          (6) The Eastern Band has a critical need to re-  
20          place the current Cherokee Elementary School,  
21          which was built by the Department of the Interior  
22          over 40 years ago with a capacity of 480 students.  
23          The school now hosts 794 students in dilapidated  
24          buildings and mobile classrooms at a dangerous

1 highway intersection in downtown Cherokee, North  
2 Carolina.

3 (7) The Eastern Band ultimately intends to  
4 build a new three-school campus to serve as an envi-  
5 ronmental, cultural, and educational “village,” where  
6 Cherokee language and culture can be taught along-  
7 side the standard curriculum.

8 (8) The land exchange and construction of this  
9 educational village will benefit the American public  
10 by preserving Cherokee traditions and fostering a vi-  
11 brant, modern, and well-educated Indian nation.

12 (9) The land exchange will also reunify tribal  
13 reservation lands now separated between the Big  
14 Cove Community and the balance of the Qualla  
15 Boundary, reestablishing the territorial integrity of  
16 the Eastern Band.

17 (10) The Ravensford tract contains no threat-  
18 ened species or endangered species listed pursuant  
19 to the Endangered Species Act of 1973. The 218-  
20 acre Yellow Face tract has a number of listed  
21 threatened species and endangered species and a  
22 higher appraised value than the 143-acre Ravensford  
23 tract.

24 (11) The American public will benefit from the  
25 Eastern Band’s commitment to mitigate any impacts

1 on natural and cultural resources on the Ravensford  
2 tract, by among other things reducing the requested  
3 acreage from 168 to 143 acres.

4 (12) The Congress and the Department of the  
5 Interior have approved land exchanges in the past  
6 when the benefits to the public and requesting party  
7 are clear, as they are in this case.

8 (b) PURPOSES.—The purposes of this Act are the fol-  
9 lowing:

10 (1) To acquire the Yellow Face tract for protec-  
11 tion by the National Park Service, in order to pre-  
12 serve the Waterrock Knob area’s spectacular views,  
13 endangered species and high altitude wetland seeps  
14 from encroachment by housing development, for the  
15 benefit and enjoyment of the American public.

16 (2) To transfer the Ravensford tract, to be held  
17 in trust by the United States for the benefit of the  
18 Eastern Band of Cherokee Indians, in order to pro-  
19 vide for an education facility that promotes the cul-  
20 tural integrity of the Eastern Band and to reunify  
21 two Cherokee communities that were historically  
22 contiguous, while mitigating any impacts on natural  
23 and cultural resources on the tract.

24 (3) To promote cooperative activities and part-  
25 nerships between the Eastern band and the National

1 Park Service within the Eastern Band’s ancestral  
2 homelands.

3 **SEC. 3. LAND EXCHANGE.**

4 (a) IN GENERAL.—The Secretary of the Interior  
5 (“Secretary”) shall exchange the Ravensford tract, cur-  
6 rently in the Great Smoky Mountains National Park and  
7 the Blue Ridge Parkway, for the Yellow Face tract adja-  
8 cent to the Waterrock Knob Visitor Center on the Blue  
9 Ridge Parkway.

10 (b) TREATMENT OF EXCHANGED LANDS.—Effective  
11 upon receipt by the Secretary of a deed or deeds satisfac-  
12 tory to the Secretary for the lands comprising the Yellow  
13 Face tract (as described in subsection (c)) to the United  
14 States, all right, title, and interest of the United States  
15 in and to the Ravensford tract (as described in subsection  
16 (d)), including all improvements and appurtenances, are  
17 declared to be held in trust by the United States for the  
18 benefit of the Eastern Band of Cherokee Indians as part  
19 of the Cherokee Indian Reservation.

20 (c) YELLOW FACE TRACT.—The Yellow Face tract  
21 shall contain Parcels 88 and 89 of the Hornbuckle Tract,  
22 Yellow Face Section, Qualla Township, Jackson County,  
23 North Carolina, which consist altogether of approximately  
24 218 acres and are depicted as the “Yellow Face Tract”  
25 on the map entitled “Land Exchange Between the Na-

1 tional Park Service and the Eastern Band of Cherokee  
2 Indians,” numbered 133/80020A, and dated November  
3 2002. The map shall be on file and available for public  
4 inspection in the appropriate offices of the National Park  
5 Service and the Bureau of Indian Affairs. Upon comple-  
6 tion of the land exchange, the Secretary shall adjust the  
7 boundary of the Blue Ridge Parkway to include such lands  
8 and shall manage the lands as part of the parkway.

9 (d) RAVENSFORD TRACT.—The lands declared by  
10 subsection (b) to be held in trust for the Eastern Band  
11 of Cherokee Indians shall consist of approximately 143  
12 acres depicted as the “Ravensford Tract” on the map  
13 identified in subsection (c). Upon completion of the land  
14 exchange, the Secretary shall adjust the boundaries of  
15 Great Smoky Mountains National Park and the Blue  
16 Ridge Parkway to exclude such lands.

17 (e) LEGAL DESCRIPTIONS.—Not later than 1 year  
18 after the date of enactment of this Act, the Secretary of  
19 the Interior shall file a legal description of the areas de-  
20 scribed in subsections (c) and (d) with the Committee on  
21 Resources of the House of Representatives and the Com-  
22 mittee on Indian Affairs and the Committee on Energy  
23 and Natural Resources of the Senate. Such legal descrip-  
24 tions shall have the same force and effect as if the infor-  
25 mation contained in the description were included in those

1 subsections except that the Secretary may correct clerical  
2 and typographical errors in such legal descriptions. The  
3 legal descriptions shall be on file and available for public  
4 inspection in the offices of the National Park Service and  
5 the Bureau of Indian Affairs.

6 **SEC. 4. IMPLEMENTATION PROCESS.**

7       (a)       GOVERNMENT-TO-GOVERNMENT       AGREE-  
8 MENTS.—In order to fulfill the purposes of this Act and  
9 to establish cooperative partnerships for purposes of this  
10 Act the Director of the National Park Service and the  
11 Eastern Band of Cherokee Indians shall enter into govern-  
12 ment-to-government consultations and shall develop proto-  
13 cols to review planned construction on the Ravensford  
14 tract. The Director of the National Park Service is author-  
15 ized to enter into cooperative agreements with the Eastern  
16 Band for the purpose of providing training, management,  
17 protection, preservation, and interpretation of the natural  
18 and cultural resources on the Ravensford tract.

19       (b) CONSTRUCTION STANDARDS.—Recognizing the  
20 mutual interests and responsibilities of the Eastern Band  
21 of Cherokee Indians and the National Park Service for  
22 the conservation and protection of the resources on the  
23 Ravensford tract, the National Park Service and the East-  
24 ern Band shall develop mutually agreed upon standards  
25 for size, impact, and design of construction consistent with



1 the purposes of this Act on the Ravensford tract. The  
2 standards shall be consistent with the Eastern Band's  
3 need to develop educational facilities and support infra-  
4 structure adequate for current and future generations and  
5 shall otherwise minimize or mitigate any adverse impacts  
6 on natural or cultural resources. The standards shall be  
7 based on recognized best practices for environmental sus-  
8 tainability and shall be reviewed periodically and revised  
9 as necessary. Development of the tract shall be limited to  
10 a road and utility corridor, an educational campus, and  
11 the infrastructure necessary to support such development.  
12 No new structures shall be constructed on the part of the  
13 Ravensford tract depicted as the "No New Construction"  
14 area on the map referred to in Section 3(c), which is gen-  
15 erally the area north of the point where Big Cove Road  
16 crosses the Raven Fork River. All development on the  
17 Ravensford tract shall be conducted in a manner con-  
18 sistent with this section and such development standards.

19 **SEC. 5. GAMING PROHIBITION.**

20 Gaming as defined and regulated by the Indian Gam-  
21 ing Regulatory Act (25 U.S.C. 2701 et seq.) shall be pro-  
22 hibited on the Ravensford tract.

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